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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,338	07/22/2003	Clayton M. Grondahl	GRON-0002	6985
23550	7590	09/21/2005	EXAMINER	
HOFFMAN WARNICK & D'ALESSANDRO, LLC			KYLE, MICHAEL J	
75 STATE STREET			ART UNIT	
14TH FL			PAPER NUMBER	
ALBANY, NY 12207			3677	

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/624,338	GRONDAHL, CLAYTON M.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Michael J. Kyle	3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 June 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 and 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claim 25 is withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected group, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on June 27, 2005. Applicant argues there is no serious burden in searching group I along with group II. Examiner respectfully disagrees. The search for elected group I would not include a thorough search for the subject matter of non-elected group II. The search for the subject matter in group I would comprise only a portion of the search required by the subject matter group II. Group II is drawn only to the subcombination of a support, or bracket. Structural supports are used in many different areas outside of seal assemblies. Searching all of these areas would be burdensome.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-5, 8-17, 19, and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dinc et al ("Dinc", U.S. Patent No. 6,173,958) in view of Webster et al ("Webster", U.S. Patent No. 6,220,602). With respect to claims 1, 8-10, 19, and 23, Dinc discloses a seal assembly comprising a brush seal (seal shown in figures 9 and 10) with a plurality of staggered seal members, and a support (74) coupled to the seal, having a portion

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facing the high pressure side of the seal. A free portion of the seal (portion of the seal between the shaft and support member) contacts a distal end (shown in figure 10) in the operative state, and is out of contact in an inoperative state. The seal has a fixed portion (between the faces of the support) that is angled relative to free portion (portion in contact with 74, in figure 10). The seal is used in a rotary machine. Dinc further discloses the fixed portion is positioned substantially perpendicular to a longitudinal axis of a component to be sealed, and the free portion is angled out of plane (see figure 10). Dinc discloses the seal to be brush seal, not a leaf seal as claimed.

4. Webster teaches a seal arrangement where either brush seal or leaf seal may be used (column 7, lines 44, 45), thereby establishing the seals as equivalent. It would have been obvious to one having ordinary skill in the art at the time of the invention to use either a brush seal or leaf seal, as Webster teaches these seals to be equivalent and interchangeable.

5. With respect to claims 3-5, 14, 21, and 22, Dinc discloses the support to include a curved surface (on 74) extending from a proximate end of the support to a distal end. The free portion extends tangentially from the curved surface in the inoperative state. The proximate end is coupled to a mount portion (70). The free portion is closer to the component to be sealed against (76) in the operative state.

6. With respect to claims 11-13, Dinc discloses a distal end of the support portion is thinner than a proximate end of the support portion. Examiner notes the distal portion at 74; is thinner than the proximate portion (top portion of 70, where the brush seal terminates, when viewed along the longitudinal axis of the machine). Dinc also shows a curved surface extending from

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the proximate end to the distal end, and the support is coupled to a mount portion (surface of 70 that is attached to the stationary component) that mounts the support to a stationary component.

7. With respect to claim 15, Dinc discloses a holder (70) mounts the seal assembly to a stationary component and includes a projection (portion extending radially downward in figure 10, left side of the holder) that protects the free portion.

8. With respect to claims 16 and 17, the combination of Dinc and Webster teaches the fixed portion to be provided by an arcuate member in each leaf seal member. Examiner notes that because the seal extends around a rotary shaft, it is essentially circular, which will include arced portions. Dinc shows the free end portion to be circumferentially parallel to a surface of the rotatable component.

9. Claims 2, 18, 20, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dinc in view of Webster as applied to claims 1, 9, and 19 above, and further in view of Halowach et al ("Halowach", U.S. Patent No. 4,813,608). Dinc and Webster fail to disclose the leaf seal layers to be made from different materials, where a first material addresses a high pressure side of the seal and a second material addresses a low pressure side of the seal, where the material has a lower coefficient of thermal expansion than the second material.

11. Halowach discloses a leaf seal assembly (40) comprising two layers of different material with different coefficients of thermal expansion. The two layers are bonded together, such that the different rate of expansion between the two layers causes the seal to bend in a preferred direction, which results in the formation of a tight air seal between adjoining structures (column 2, lines 13-24). It would have been obvious to one having ordinary skill in the art at the time of

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the invention to modify Dinc and Webster as taught by Halowach, such that the layers are made of materials with different coefficients of thermal expansion, so that the differing rates of expansion causes the seal to bend, forming a tight air seal between the structures.

12. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dinc in view of Webster as applied to claim 1 above, and further in view of Johnson et al ("Johnson", U.S. Patent No. 5,108,116). Dinc and Webster fail to disclose the plurality of staggered leaf seal members (3, 4) to be provided by a single strip of material.

13. Johnson teaches a leaf seal arrangement (10) made from single strip of material. Manufacturing a multi-layered seal from a single strip of material lowers manufacturing costs because the seal can then be assembled in a simpler fashion, as opposed cutting two different layers to length and connecting the layers together to form the seal. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Dinc and Webster as taught by Johnson, such that the seal is made from a single strip of material, in order to reduce manufacturing costs. Johnson further discloses the leaf seal members to be fixed by a weld.

14. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gail et al ("gail", U.S. Patent No. 6,353,263) in view of Webster. Gail discloses a method of fabricating a seal assembly comprising the steps of forming a brush seal member (1) with a fixed portion (6) angled relative to a free portion (7) in an inoperative state. The brush seal is coupled to a support (9), such that the free portion (7) contacts a distal end of the support portion (11) in an operative

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state, and is out of contact with the distal end in the inoperative state (separated by gap 12) Gail only discusses the use of a brush seal, not a leaf seal as claimed.

15. Webster teaches a seal arrangement where either brush seal or leaf seal may be used (column 7, lines 44, 45), thereby establishing the seals as equivalent. It would have been obvious to one having ordinary skill in the art at the time of the invention to use either a brush seal or leaf seal, as Webster teaches these seals to be equivalent and interchangeable.

### ***Response to Arguments***

16. Applicant's arguments with respect to all claims have been considered but are moot in view of the new ground(s) of rejection. The rejections based on Ono have been withdrawn. The rejections under 35 U.S.C. 102(b) based on Dinc have been also been withdrawn. Examiner has included the Webster patent to teach equivalents between a brush seal and leaf seal.

Additionally, the Gail patent has been cited in the rejection of claim 24. This action is non-final because new grounds of rejection have been brought forth, absent of any amendment to the claims that would necessitate the new grounds of rejection.

### ***Conclusion***

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Kyle whose telephone number is 571-272-7057. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.




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18. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

19. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mk

  
ROBERT J. SANDY  
PRIMARY EXAMINER